IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 844 OF 2002

IN

SUIT NO. 2245 OF 2001

Sarita Sashikant Dukhande .. Plaintiff

versus

Hitendra Vasant Sadvelkar .. Defendant

Mr Mohan Dharmaraj for Plff

None for Defendant

CORAM : D.G. KARNIK, J

DATED : 8th April 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant though served. Affidavit of service tendered by the learned Advocate for the plaintiff is taken on record and marked Exhibit A.

2. The plaintiff is the owner of the suit premises and suit business. By a business conducting agreement dated 13th November, 1979 the plaintiff permitted one

Subhadrabai Ganu Dolas to conduct their business as a conductor. It appears that the defendant came in possession of the said business through Subhadrabai. The period of business conducting agreement is over and the defendant is in unauthorised possession. Learned counsel for the plaintiff states that the suit business is presently not being conducted and suit premises are being kept closed. However, the entire building which was previously four storeyed building has been demolished except the suit premises and the suit premises have also become dilapidated and dangerous. In the absence of any affidavit in reply, motion is allowed in terms of prayer clause (a). Receiver however shall not take physical possession of the property but would be entitled to take symbolic possession of the property and appoint the defendant if found in possession as agent of the receiver on usual terms. Liberty to apply in the event the defendant fails to execute the necessary agreement with the receiver. Motion is disposed of.

D.G.KARNIK, J

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